

House Bill 1382

By: Representatives Taylor of the 55<sup>th</sup>, Ashe of the 56<sup>th</sup>, and Bruce of the 64<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales and use taxes, so as to provide for a special purpose public safety local option sales and use tax; to provide for definitions, procedures, manner of imposition, accounting for use of proceeds, method of collection, and limitation on use of proceeds; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales and use taxes, is amended by adding a new article to read as follows:

"ARTICLE 5

48-8-230.

As used in this article, the term:

(1) 'Intergovernmental agreement' means a contract entered into pursuant to Article IX, Section III, Paragraph I of the Constitution between a county and one or more qualified municipalities located within the special district containing a combined total of no less than 50 percent of the aggregate municipal population located within the special district.

(2) 'Public safety project' means the capital outlay projects involving delivery of police, fire, emergency management, emergency medical, 9-1-1, and ambulance services, including the construction of facilities for such services; the purchase of equipment and vehicles to deliver such services; the maintenance of such buildings, vehicles, and equipment for the delivery of such services; training of personnel for such services; and similar costs of providing such services; provided, however, that such term shall not include salaries or benefits.

(3) 'Qualified municipality' means only those incorporated municipalities which provide at least three of the following services, either directly or by contract:

(A) Law enforcement;

(B) Fire protection, which may be furnished by a volunteer fire force, and fire safety;

(C) Road and street construction or maintenance;

(D) Solid waste management;

(E) Water supply or distribution or both;

(F) Waste-water treatment;

(G) Storm-water collection and disposal;

(H) Electric or gas utility services;

(I) Enforcement of building, housing, plumbing, and electrical codes and other similar codes;

(J) Planning and zoning;

(K) Recreational facilities; or

(L) Library.

48-8-231.

(a) Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the Constitution of this state, there are created within this state 159 special districts. The geographical boundary of each county shall correspond with and shall be conterminous with the geographical boundary of the 159 special districts.

(b) When the imposition of a special district sales and use tax is authorized according to the procedures provided in this article within a special district, the governing authority of any county in this state may, subject to the requirement of referendum approval and the other requirements of this article, impose for a limited period of time within the special district a special sales and use tax to be known as the county public safety local option sales tax.

(c) Any tax imposed under this article shall be at the rate of 1 percent. Except as to rate, a tax imposed under this article shall correspond to the tax imposed by Article 1 of this chapter. No item or transaction which is not subject to taxation under Article 1 of this chapter shall be subject to a tax imposed under this article, except that a tax imposed under this article shall apply to sales of motor fuels as prepaid local tax as that term is defined by paragraph (5.1) of Code Section 48-8-2 and shall be applicable to the sale of food and beverages as provided for in division (57)(D)(i) of Code Section 48-8-3.

48-8-232.

(a) Prior to the issuance of the call for the referendum and prior to the vote of a county governing authority within a special district to impose the tax under this article, such governing authority may enter into an intergovernmental agreement with any or all of the qualified municipalities within the special district. Any county that desires to have a tax under this article levied within the special district shall deliver or mail a written notice to the mayor or chief elected official in each qualified municipality located within the special district. Such notice shall contain the date, time, place, and purpose of a meeting at which the governing authorities of the county and of each qualified municipality are to meet to discuss the possible projects for inclusion in the referendum, including municipal projects. The notice shall be delivered or mailed at least ten days prior to the date of the meeting. The meeting shall be held at least 30 days prior to the issuance of the call for the referendum. Following such meeting, the governing authority of the county within the special district voting to impose the tax authorized by this article shall notify the county election superintendent by forwarding to the superintendent a copy of the resolution or ordinance of the governing authority calling for the imposition of the tax. Such ordinance or resolution shall specify eligible expenditures identified by the county and any qualified municipality for use of proceeds distributed pursuant to subsection (b) of Code Section 48-8-237. Such ordinance or resolution shall also specify:

(1) The purpose or purposes, including but not limited to public safety projects located within or outside, or both within and outside, any incorporated areas in the county in the special district, for which the proceeds of the tax are to be used and may be expended;

(2) The maximum period of time, to be stated in calendar years or calendar quarters and not to exceed five years; and

(3) The estimated cost of the project or projects to be funded from the proceeds of the tax; such estimated cost shall also be the estimated amount of net proceeds to be raised by the tax.

(b) Upon receipt of the resolution or ordinance, the election superintendent shall issue the call for an election for the purpose of submitting the question of the imposition of the tax to the voters of the county within the special district. The election superintendent shall issue the call and shall conduct the election on a date and in the manner authorized under Code Section 21-2-540. The election superintendent shall cause the date and purpose of the election to be published once per week for four weeks immediately preceding the date of the election in the official organ of the county.

(c) The ballot submitting the question of the imposition of the tax authorized by this article to the voters of the county within the special district shall have written or printed thereon the following:

94 "( ) YES Shall a special 1 percent sales and use tax for public safety purposes be  
 95 imposed in the special district of \_\_\_\_\_ County for a period of time not  
 96 ( ) NO to exceed \_\_\_\_\_ and for the raising of an estimated amount of \$ \_\_\_\_\_  
for the purpose of \_\_\_\_\_ ?'

97 (d) All persons desiring to vote in favor of imposing the tax shall vote 'Yes' and all persons  
 98 opposed to levying the tax shall vote 'No.' If more than one-half of the votes cast are in  
 99 favor of imposing the tax then the tax shall be imposed as provided in this article;  
 100 otherwise, the tax shall not be imposed and the question of imposing the tax shall not again  
 101 be submitted to the voters of the county within the special district until after 12 months  
 102 immediately following the month in which the election was held have passed; provided,  
 103 however, that if an election date authorized under Code Section 21-2-540 occurs during the  
 104 twelfth month immediately following the month in which such election was held, the  
 105 question of imposing the tax may be submitted to the voters of the county within the  
 106 special district on such date. The election superintendent shall hold and conduct the  
 107 election under the same rules and regulations as govern special elections. The  
 108 superintendent shall canvass the returns, declare the result of the election, and certify the  
 109 result to the Secretary of State and to the commissioner. The expense of the election shall  
 110 be paid from county funds.

111 48-8-233.

112 (a) With respect to any consolidated government created by the consolidation of a county  
 113 and one or more municipalities, the provisions of this Code section shall control over any  
 114 conflicting provisions of this article.

115 (b) A consolidated government shall be authorized to levy a tax for any public safety  
 116 project without the necessity of operating such project jointly with a qualified municipal  
 117 governing authority, owning or operating such projects with one or more qualified  
 118 municipalities, or entering into a contract with one or more qualified municipalities with  
 119 respect to such project.

120 (c) In all respects not otherwise provided for in this Code section, the levy of a tax under  
 121 this article by a consolidated government shall be in the same manner as the levy of the tax  
 122 by any other county.

123 48-8-234.

124 (a) If the imposition of the tax is approved at the special election, the tax shall be imposed  
 125 on the first day of the next succeeding calendar quarter which begins more than 80 days  
 126 after the date of the election at which the tax was approved by the voters; provided,

however, the resolution shall become effective on or after such date for services which are regularly billed on a monthly basis.

(b) The tax shall cease to be imposed on the earliest of the following dates:

(1) On the final day of the maximum period of time specified for the imposition of the tax; or

(2) As of the end of the calendar quarter during which the commissioner determines that the tax will have raised revenues sufficient to provide to the county and qualified municipalities within the special district net proceeds equal to or greater than the amount specified as the estimated amount of net proceeds to be raised by the tax.

(c)(1) At any time no more than a single 1 percent tax under this article may be imposed within a special district.

(2) The governing authority of a county in a special district in which a tax authorized by this article is in effect may, while the tax is in effect, adopt a resolution or ordinance calling for the reimposition of a tax as authorized by this article upon the termination of the tax then in effect; and a special election may be held for this purpose while the tax is in effect. Proceedings for the reimposition of a tax shall be in the same manner as proceedings for the initial imposition of the tax, but the newly authorized tax shall not be imposed until the expiration of the tax then in effect; provided, however, that in the event of emergency conditions under which a county is unable to conduct a referendum so as to continue the tax then in effect without interruption, the commissioner may, if feasible administratively, waive the limitations of subsection (a) of this Code section to the minimum extent necessary so as to permit the reimposition of a tax, if otherwise approved as required under this Code section, without interruption, upon the expiration of the tax then in effect.

(3) Following the expiration of a tax under this article, the governing authority of a county within a special district may initiate proceedings for the reimposition of a tax under this article in the same manner as provided in this article for initial imposition of such tax.

48-8-235.

A tax levied pursuant to this article shall be exclusively administered and collected by the commissioner for the use and benefit of the county and qualified municipalities within such special district imposing the tax. Such administration and collection shall be accomplished in the same manner and subject to the same applicable provisions, procedures, and penalties provided in Article 1 of this chapter except that the sales and use tax provided in this article shall be applicable to sales of motor fuels as prepaid local tax as that term is defined by paragraph (5.1) of Code Section 48-8-2; provided, however, that all moneys

collected from each taxpayer by the commissioner shall be applied first to such taxpayer's liability for taxes owed the state; and provided, further, that the commissioner may rely upon a representation by or on behalf of the county and qualified municipalities within the special district or the Secretary of State that such a tax has been validly imposed, and the commissioner and the commissioner's agents shall not be liable to any person for collecting any such tax which was not validly imposed. Dealers shall be allowed a percentage of the amount of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and paying the amount due if such amount is not delinquent at the time of payment. The deduction shall be at the rate and subject to the requirements specified under subsections (b) through (f) of Code Section 48-8-50.

48-8-236.

Each sales tax return remitting taxes collected under this article shall separately identify the location of each retail establishment at which any of the taxes remitted were collected and shall specify the amount of sales and the amount of taxes collected at each establishment for the period covered by the return in order to facilitate the determination by the commissioner that all taxes imposed by this article are collected and distributed according to situs of sale.

48-8-237.

(a) The proceeds of the tax collected by the commissioner in each county within a special district under this article shall be disbursed as soon as practicable after collection as follows:

(1) One percent of the amount collected shall be paid into the general fund of the state treasury in order to defray the costs of administration; and

(2) Except for the percentage provided in paragraph (1) of this Code section, the remaining proceeds of the tax shall be distributed as specified in subsection (b) of this Code section to the governing authority of the county within the special district imposing the tax.

(b) The county within the special district shall distribute any such proceeds as follows:

(1) To the county governing authority and any qualified municipalities as specified in an intergovernmental agreement. Where an intergovernmental agreement has been entered into, the agreement shall, at a minimum, include the following:

(A) The specific public safety project or projects to be funded pursuant to the agreement;

(B) The estimated or projected dollar amounts allocated for each project from tax proceeds from the tax authorized by this article;

198 (C) The procedures for distributing proceeds from the tax authorized by this article to  
199 qualified municipalities;

200 (D) A schedule for distributing proceeds from the tax authorized by this article to  
201 qualified municipalities; such schedule shall include the priority or order in which  
202 projects will be fully or partially funded;

203 (E) A provision that all public safety projects included in the agreement shall be funded  
204 from proceeds from the tax authorized by this article except as otherwise agreed;

205 (F) A provision that proceeds from the tax authorized by this article shall be  
206 maintained in separate accounts and utilized exclusively for the specified purposes;

207 (G) Record-keeping and audit procedures necessary to carry out the purposes of this  
208 article; and

209 (H) Such other provisions as the county and participating municipalities choose to  
210 address; or

211 (2) Where an intergovernmental agreement has not been entered into pursuant to  
212 paragraph (1) of this subsection, the county within the special district shall distribute the  
213 proceeds of the tax authorized by this article to the qualified municipalities within the  
214 special district based upon the ratio that the population of each qualified municipality  
215 bears to the total population of the county within the special district. If any qualified  
216 municipality is located in more than one county, only that portion of its population that  
217 is within the special district shall be counted. The remainder of such proceeds shall be  
218 distributed to the governing authority of the county within the special district. Where  
219 proceeds are distributed in accordance with this paragraph, the governing authority of the  
220 county within the special district shall distribute on a monthly basis all proceeds received  
221 by the county for the tax levied pursuant to this article to the qualified municipalities  
222 within the special district.

223 48-8-238.

224 Where a local sales or use tax has been paid on tangible personal property by the purchaser  
225 either in another local tax jurisdiction within the state or in a tax jurisdiction outside the  
226 state, the tax may be credited against the tax authorized to be imposed by this article upon  
227 the same property. If the amount of sales or use tax so paid is less than the amount of the  
228 use tax due under this article, the purchaser shall pay an amount equal to the difference  
229 between the amount paid in the other tax jurisdiction and the amount due under this article.  
230 The commissioner may require such proof of payment in another local tax jurisdiction as  
231 he or she deems necessary and proper. No credit shall be granted, however, against the tax  
232 imposed under this article for tax paid in another jurisdiction if the tax paid in such other  
233 jurisdiction is used to obtain a credit against any other local sales and use tax levied in the

234 county or in a special district which includes the county; and taxes so paid in another  
235 jurisdiction shall be credited first against the tax levied under Article 2 of this chapter, if  
236 applicable, and then against the tax levied under this article.

237 48-8-239.

238 No tax provided for in this article shall be imposed upon the sale of tangible personal  
239 property which is ordered by and delivered to the purchaser at a point outside the  
240 geographical area of the county in which the tax is imposed regardless of the point at which  
241 title passes, if the delivery is made by the seller's vehicle, United States mail, or common  
242 carrier or by private or contract carrier licensed by the Interstate Commerce Commission  
243 or the Georgia Public Service Commission.

244 48-8-240.

245 The commissioner shall have the power and authority to promulgate such rules and  
246 regulations as shall be necessary for the effective and efficient administration and  
247 enforcement of the collection of the tax authorized to be imposed by this article.

248 48-8-241.

249 Except as provided in Code Section 48-8-6, the tax authorized by this article shall be in  
250 addition to any other local sales and use tax. Except as provided in Code Section 48-8-6,  
251 the imposition of any other local sales and use tax within a county or qualified municipality  
252 within a special district shall not affect the authority of such a county to impose the tax  
253 authorized by this article, and the imposition of the tax authorized by this article shall not  
254 affect the imposition of any otherwise authorized local sales and use tax within the county  
255 within the special district.

256 48-8-242.

257 (a) The proceeds received from the tax authorized by this article shall be used by the  
258 county and qualified municipalities within the special district receiving proceeds of the  
259 sales and use tax exclusively for the purpose or purposes specified in the resolution or  
260 ordinance calling for imposition of the tax. Such proceeds shall be kept in a separate  
261 account from other funds of such county and each qualified municipality and shall not in  
262 any manner be commingled with other funds of such county and each qualified  
263 municipality prior to the expenditure.

264 (b) The governing authority of the county and the governing authority of each qualified  
265 municipality within the special district receiving any proceeds from the tax pursuant to this  
266 article shall maintain a record of each and every project for which the proceeds of the tax



are used. A schedule shall be included in each annual audit which shows for each such project the original estimated cost, the current estimated cost if it is not the original estimated cost, amounts expended in prior years, and amounts expended in the current year. The auditor shall verify and test expenditures sufficient to provide assurances that the schedule is fairly presented in relation to the financial statements. The auditor's report on the financial statements shall include an opinion, or disclaimer of opinion, as to whether the schedule is presented fairly in all material respects in relation to the financial statements taken as a whole.

(c) In the event that a qualified municipality fails to comply with the requirements of this article, the county within the special district shall not be held liable for such noncompliance.

48-8-243.

The governing authority of the county and the governing authority of each municipality receiving any proceeds from the tax under this article shall maintain a record of each and every project for which the proceeds of the tax are used. Not later than December 31 of each year, the governing authority of each local government receiving any proceeds from the tax under this article shall publish annually, in a newspaper of general circulation in the boundaries of such local government, a simple, nontechnical report which shows for each project or purpose in the resolution or ordinance calling for imposition of the tax the original estimated cost, the current estimated cost if it is not the original estimated cost, amounts expended in prior years, and amounts expended in the current year. The report shall also include a statement of what corrective action the local government intends to implement for each project which is underfunded or behind schedule and a statement of any surplus funds which have not been expended for a project or purpose."

## SECTION 2.

All laws and parts of laws in conflict with this Act are repealed.